

Appendix E

Agency Correspondence

US 301 Project Development



***Federal Highway
Administration***



***Delaware Department
Of Transportation***



STATE OF DELAWARE
DEPARTMENT OF NATURAL RESOURCES & ENVIRONMENTAL CONTROL
DIVISION OF FISH & WILDLIFE

NATURAL HERITAGE & ENDANGERED SPECIES

4876 HAY POINT LANDING ROAD
SMYRNA, DELAWARE 19977

TELEPHONE: (302) 653-2880
FAX: (302) 653-3431

July 25, 2005

Justin T. Reel
Rummel, Klepper & Kahl, LLP
81 Mosher Street
Baltimore, MD 21217-4250

RE: US 301 Corridor Project Development

Dear Mr. Reel:

Thank you for contacting the Natural Heritage and Endangered Species program about information on rare, threatened and endangered species, unique natural communities, and other significant natural resources as they relate to the above referenced project.

This large project area has been sectioned into three quadrants to ease identification of rare species locations (see attached map). Further coordination by your client with our office will be necessary as this project moves forward.

All Quadrants:

Bog Turtle

A review of our database has revealed that there may be suitable habitat for the federally listed bog turtle (*Glyptemys muhlenbergii*) within the proposed project area. Because the bog turtle is a federally listed species, protected under the Endangered Species Act, its presence can affect the scope of work. To ensure that the project will not impact bog turtles or their habitat, Phase I surveys for bog turtle habitat should be conducted. Some wetlands within the project area may have already been surveyed by our staff and this information will be available via a shape file that will be forwarded to your client directly. Phase I surveys will need to be conducted in other wetlands identified within the project area that have not been surveyed by our staff. If potential bog turtle habitat is identified by our staff or found during additional Phase I surveys, your client is required to either:

RECEIVED

AUG 01 2005

- 1) Completely avoid all direct and indirect project impacts to the wetland, in consultation with the U.S. Fish and Wildlife Service and Delaware Division of Fish and Wildlife;

OR

- 2) Have surveys conducted to determine if bog turtles are present. In accordance with Delaware's bog turtle site survey procedures, surveys must be conducted by a State-approved bog turtle surveyor between April 15 and June 15.

Phase I surveys can be conducted any time of year when snow cover is not present. If potential habitat is found, however, please note there is a time of year restriction during which Phase II surveys for bog turtles must be conducted. *Delaware approved bog turtle surveyors must be used for these surveys.* Please contact Holly Niederriter (302-653-2880) to obtain a list of Delaware approved bog turtle surveyors.

Migratory Birds

Bridges within the project area will need to be surveyed for the presence of nesting migratory birds, disturbance of which is regulated by the federal Migratory Bird Treaty Act (MBTA). It is likely that one or more pairs of barn swallow (*Hirundo rustica*) and/or Eastern phoebe (*Sayornis phoebe*) nest under the bridge. If a survey detects a substantial number of active nests, impacts should be avoided by performing construction activities from 1 August to 15 April. If construction cannot be performed in this time period, a deterrent such as mesh netting should be used to block access to nesting sites on the underside of the bridge. The material would need to be in place no later than 15 April, the underside of the bridge would need to be fully encapsulated, and the material should be left in place until construction begins.

Bald Eagle

There is an active Bald Eagle (*Haliaeetus leucocephalus*) nest within project boundaries or very close to the boundaries along Scott Run. The location of this nest should be ground truthed as this project moves forward to ensure no impacts to this species. In addition, there has been activity in the general vicinity of Middletown and also around Summit Air Park. If the project area extends beyond the ROW along US 301 then surveys should be conducted to locate potential nests.

In addition to those species mentioned above, a review of our database indicates that the following species and/or communities at or adjacent to the project site:

Quadrant 1: (within study area east of Railroad tracks and north of Marl Pit Rd)

Scientific Name	Common Name	Taxon	State Rank	State Status	Global Rank	Federal Status
<i>Hemidactylium scutatum</i>	four-toed salamander	Amphibian	S1		G5	
<i>Septemvittata regina</i>	queen snake	Reptile	S1		G5	
<i>Atlides halesus</i>	great purple hairstreak	Insect	S1		G5	
<i>Carex mitchelliana</i>	Mitchell's sedge	Plant	S2		G4G5	
<i>Agastache nepetoides</i>	yellow giant hyssop	Plant	S2		G5	
<i>Enneacanthus chaetodon</i>	blackbanded sunfish	Fish	S2		G4	
<i>Anodonta implicata</i>	alewife floater	Fish	S1		G5	

Quadrant 2 (within study area west of railroad tracts and north of Marl Pit Road):

There are no additional species (other than a potential for bog turtle, Bald Eagle, and migratory birds) located within this quadrant.

Quadrant 3 (within study area south of Marl Pit Road):

Scientific Name	Common Name	Taxon	State Rank	State Status	Global Rank	Federal Status
<i>Caltha palustris</i>	marsh marigold	Plant	S2		G5	
<i>Luzula acuminata</i>	hairy woodrush	Plant	S1		G5	
<i>Cyperus refractus</i>	Abruptly bent backed flatsedge	Plant	S2		G5	
<i>Anodonta implicata</i>	alewife floater	Mussel	S1		G5	

State Rank: S1- extremely rare within the state (typically 5 or fewer occurrences); S2- very rare within the state (6 to 20 occurrences); B - Breeding; N - Nonbreeding; SX-Extirpated or presumed extirpated from the state. All historical locations and/or potential habitat have been surveyed; SH- Historically known, but not verified for an extended period (usually 15+ years); there are expectations that the species may be rediscovered; SE-Non-native in the state (introduced through human influence); not a part of the native flora or fauna.

State Status: E – endangered, i.e. designated by the Delaware Division of Fish and Wildlife as seriously threatened with extinction in the state;

Global Rank: G1 - imperiled globally because of extreme rarity (5 or fewer occurrences worldwide); G2 - imperiled globally because of great rarity (6 to 20 occurrences); G3 - either very rare and local throughout its range (21 to 100 occurrences) or found only locally in a restricted range; G4 - apparently secure globally but uncommon in parts of its range; G5 - secure on a global basis but may be uncommon locally; T_ - variety or subspecies rank; Q – questionable taxonomy;

Federal Status: LE – endangered, i.e. designated by the U.S. Fish and Wildlife Service as being in danger of extinction throughout its range; LT – threatened, i.e. designated by USFWS as being likely to become endangered in the foreseeable future throughout all or a significant portion of its range; Candidate – Taxa for which the U.S. Fish and Wildlife Service has on file enough substantial information on biological vulnerability and threat(s) to support proposals to list them as endangered or threatened species.

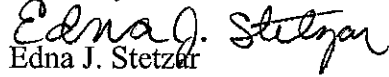
The project area also contains State Wildlife Area lands, managed by the Division of Fish and Wildlife, DNREC. As this project moves forward, the applicant should consult with the Regional Wildlife Biologist (currently Rob Hossler 302-834-8433) to minimize potential negative impacts of the proposed project on State Wildlife Area lands.

There may also be species of fish that are not listed as rare but are commercially and/or recreationally important. If you require information pertaining to anadromous or

freshwater fish species, please contact Craig Shirey, Fisheries Program Manager, at 739-9914.

We are continually updating records on Delaware's rare, threatened and endangered species, unique natural communities and other significant natural resources. If the start of the project is delayed more than a year past the date of this letter, please contact us again for the latest information. If you have any questions, please contact me at (302) 653-2883 ext. 126.

Sincerely,


Edna J. Stetzer

Biologist/Environmental Review Coordinator

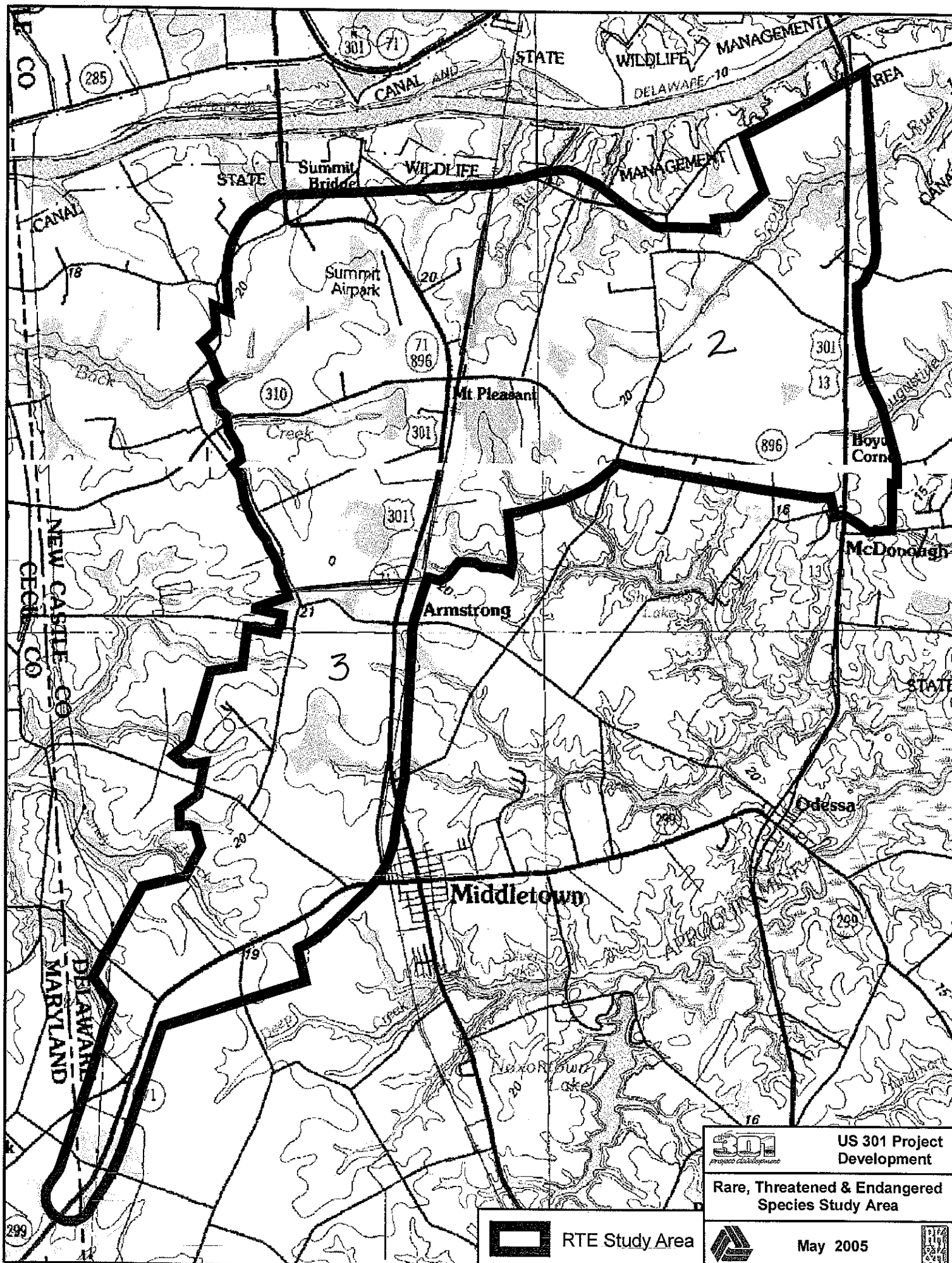
INVOICE - PAYMENT DUE

It is our policy to charge a fee for this environmental review service. This letter constitutes an invoice for \$118.00 (\$29.50/hour for four hours). Please make your check payable to "Delaware Division of Fish and Wildlife" and submit to:

DE Division of Fish and Wildlife
89 Kings Hwy.
Dover, DE 19901
ATTN: Carla Cassell-Carter

Please reference "RK&K 2005-06-29" on your check.

cc: Carla Cassell-Carter, Fish and Wildlife Coordination/Accounting; Code to 9892
Andy Moser, Endangered Species Biologist, Chesapeake Bay Field Office, USFWS
Craig Koppie, Endangered Species Biologist, Chesapeake Bay Field Office, USFWS
Rob Hossler, Regional Wildlife Biologist, DNREC-Division of Fish & Wildlife





STATE OF DELAWARE
DEPARTMENT OF NATURAL RESOURCES & ENVIRONMENTAL CONTROL
DIVISION OF FISH & WILDLIFE
NATURAL HERITAGE & ENDANGERED SPECIES
4876 HAY POINT LANDING ROAD
SMYRNA, DELAWARE 19977

TELEPHONE: (302) 653-2880
FAX: (302) 653-3431

November 21, 2005

Justin Reel
Rummel, Klepper & Kahl, LLP
81 Mosher Street
Baltimore, MD 21217-4250

RECEIVED

NOV 28 2005

Re: US 301 Project Development, Request for additional RTE information
Applicant: DelDOT

RUMMEL, KLEPPER & KAHL, LLP

Dear Justin:

Thank you for contacting the Delaware Natural Heritage Program (DNHP) about information on rare, threatened and endangered species, unique natural communities, and other significant natural resources as they relate to the above referenced project, specifically, the proposed route alternative that runs north of the Chesapeake and Delaware Canal.

A review of our database indicates the following species and/or communities at or adjacent to the project site:

Scientific Name	Common Name	Taxon	State Rank	State Status	Global Rank	Federal Status
<i>Cordulegaster bilineata</i>	Brown Spiketail	Dragonfly	S2		G5	
<i>Panax quinquefolius</i>	American Ginseng	Vascular Plant	S2		G4	
<i>Carex willdenowii</i>	Willdenow's Sedge	Vascular Plant	S1		G5	

State Rank: S1- extremely rare within the state (typically 5 or fewer occurrences); S2- very rare within the state (6 to 20 occurrences); B - Breeding; N - Nonbreeding; SX-Extirpated or presumed extirpated from the state. All historical locations and/or potential habitat have been surveyed; SH- Historically known, but not verified for an extended period (usually 15+ years); there are expectations that the species may be rediscovered; SE-Non-native in the state (introduced through human influence); not a part of the native flora or fauna.

State Status: E - endangered, i.e. designated by the Delaware Division of Fish and Wildlife as seriously threatened with extinction in the state;

Global Rank: G1 - imperiled globally because of extreme rarity (5 or fewer occurrences worldwide); G2 - imperiled globally because of great rarity (6 to 20 occurrences); G3 - either very rare and local throughout its range (21 to 100 occurrences) or found only locally in a restricted range; G4 - apparently secure globally but uncommon in parts of its range; G5 - secure on a global basis but may be uncommon locally; T - variety or subspecies rank; Q - questionable taxonomy;

Federal Status: LE - endangered, i.e. designated by the U.S. Fish and Wildlife Service as being in danger of extinction throughout its range; LT - threatened, i.e. designated by USFWS as being likely to become endangered in the foreseeable future throughout all or a significant portion of its range; Candidate - Taxa for which the U.S. Fish and Wildlife Service has on file enough substantial information on biological vulnerability and threat(s) to support proposals to list them as endangered or threatened species.

The Brown Spiketail has been observed adjacent to your proposed work area on Muddy Run. Dragonflies are dependent on consistent water quality, especially during their egg and larval stages. Efforts should be made to avoid increased sedimentation or changes in water level during construction around this area.

Delaware's Good Nature Depends on You!

American Ginseng and Willdenow's Sedge have been observed along the eastern facing slopes of Iron Hill, adjacent to your proposed work area. Disturbance of the substrate and the canopy layer of this forest should be minimized in this area.

In addition to the above mentioned rare species, review of our database has revealed that there may be suitable habitat for the federally listed bog turtle (*Glyptemys muhlenbergii*) within the proposed project area. Because the bog turtle is a federally listed species, protected under the Endangered Species Act, its presence can affect the scope of work. To ensure that the project will not impact bog turtles or their habitat, Phase I surveys for bog turtle habitat should be conducted. If potential bog turtle habitat is found during Phase I surveys, you are required to either:

- 1) Completely avoid all direct and indirect project impacts to the wetland, in consultation with the U.S. Fish and Wildlife Service and Delaware Division of Fish and Wildlife;

OR

- 2) Have surveys conducted to determine if bog turtles are present. In accordance with Delaware's bog turtle site survey procedures, surveys must be conducted by a State-approved bog turtle surveyor between April 15 and June 15.

Phase I surveys can be conducted any time of year when snow cover is not present. If potential habitat is found, however, please note there is a time of year restriction during which Phase II surveys for bog turtles must be conducted. *A Delaware approved bog turtle surveyor must be used to conduct the surveys.* Please contact Holly Niederriter (302-653-2880) to obtain a list of contacts to conduct Phase I and, if necessary, Phase II surveys.

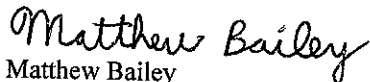
The proposed project area also impacts the Iron Hill Natural Area. If you require further information about State Natural Areas, please contact Rob Line at: (302) 739-3423.

The proposed project is within ½ mile of the boundary of C & D Canal Wildlife Area, a State Wildlife Area managed by the Division of Fish and Wildlife, DNREC. The State is concerned that the quantity and quality of wildlife habitat in the State Wildlife Area, particularly near the border, might be negatively affected by development activities, or by permanent land use changes, on the property in question. DelDOT should consult with the Regional Wildlife Biologist (currently, Rob Hossler, (302) 834-8433) to minimize potential negative impacts of the proposed project on State Wildlife Area lands.

We are continually updating our records on Delaware's rare, threatened and endangered species, unique natural communities and other significant natural resources. If the start of the project is delayed more than a year past the date of this letter, please contact us again for the latest information.

Feel free to get in touch with me if you have any questions or require additional information.

Sincerely,



Matthew Bailey
DelDOT Environmental Review Coordinator
(302) 653-2880
(302) 653-3431 fax
matthew.bailey@state.de.us



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Chesapeake Bay Field Office
177 Admiral Cochrane Drive
Annapolis, MD 21401



August 17, 2005

RECEIVED

AUG 23 2005

Mr. Justin T. Reel
Project Scientist
Rummel, Klepper & Kahl, LLP
81 Mosher Street
Baltimore, Maryland 21217-4250

RUMMEL, KLEPPER & KAHL, LLP

RE: *US 301 Project Development, Delaware Department of Transportation, New Castle County, DE*

Dear Mr. Reel:

This responds to your letter, received May 16, 2005, requesting information on the presence of species which are federally listed or proposed for listing as endangered or threatened within the above referenced project area. We have reviewed the information you enclosed and are providing comments in accordance with section 7 of the Endangered Species Act (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*).

The federally threatened bog turtle (*Clemmys muhlenbergii*) may be present within the project area. Bog turtles primarily inhabit palustrine wetlands comprised of a muddy bottom or shallow water, and tussocks of vegetation. A survey for bog turtle habitat and bog turtles may be appropriate. These surveys should be conducted at any location the Delaware Natural Heritage and Endangered Species Program recommends. Upon completion, survey reports should be forwarded to both the Service and the Delaware Natural Heritage and Endangered Species Program for review. If you have not already sent a copy of your request for threatened and endangered species information to the Delaware Natural Heritage and Endangered Species Program, please do so. Ms. Holly Niederriter can provide further details regarding the distribution of bog turtles in the state of Delaware, appropriate survey techniques for determining the presence of the species, and a list of qualified bog turtle surveyors. Ms. Niederriter may be contacted at (302) 653-2880 ext 121. Should your surveys show the species to be present within the project impact area, further coordination will be required with the U.S. Fish and Wildlife Service and the Department of Natural Resources and Environmental Control.

The federally threatened bald eagle (*Haliaeetus leucocephalus*) nests within the vicinity of the project area. According to our records, a nest is located along Scott Run approximately 0.8 miles east of US 301. For further information regarding activity at this nest, Christopher Heckscher of the Delaware Natural Heritage Program should be contacted at (302) 653-2880 ext 118. Any

construction or forest clearing activities within one-quarter mile of an active nest may impact bald eagles. If such impacts may occur, further section 7 consultation with the U.S. Fish and Wildlife Service may be required.

Except for occasional transient individuals, no other federally proposed or listed threatened or endangered species are known to exist within the project area. Should project plans change, or if additional information on the distribution of listed or proposed species becomes available this determination may be reconsidered.


This response relates only to federally protected threatened and endangered species under our jurisdiction. For information on the presence of other rare species, you should contact Karen Bennett of the Delaware Natural Heritage and Endangered Species Program at (302) 653-2880.

An additional concern of the Service is wetlands protection. The Service's wetlands policy has the interim goal of no overall net loss of Delaware Bay's remaining wetlands, and the long term goal of increasing the quality and quantity of the Basin's wetlands resource base. Because of this policy and the functions and values wetlands perform, the Service recommends avoiding wetland impacts. All wetlands within the project area should be identified, and if construction in wetlands proposed, the U.S. Army Corps of Engineers, Philadelphia District should be contacted for permit requirements. They can be reached at (215) 656-6728.

We appreciate the opportunity to provide information relative to fish and wildlife issues, and thank you for your interest in these resources. If you have any questions or need further assistance, please contact Andrew Moser at (410) 573-4537.

Sincerely,



 Mary J. Ratnaswamy, Ph.D.
Program Supervisor, Threatened and Endangered Species

cc: Holly Niederriter, Delaware Natural Heritage Program, Smyrna, DE
Christopher Heckscher, Delaware Natural Heritage Program, Smyrna, DE
Richard Hassel, Chief, Application Section I, COE, Philadelphia, PA



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Chesapeake Bay Field Office

177 Admiral Cochrane Drive

Annapolis, MD 21401



December 7, 2005

RECEIVED

DEC 13 2005

Mr. Justin T. Reel
Project Scientist
Rummel, Klepper & Kahl, LLP
81 Mosher Street
Baltimore, Maryland 21217-4250

RUMMEL, KLEPPER & KAHL, LLP

RE: *Request for Additional RTE Information - US301 Project Development, Delaware
Department of Transportation, New Castle County, DE*

Dear Mr. Reel:

This responds to your letter, dated August 24, 2005, requesting information on the presence of species which are federally listed or proposed for listing as endangered or threatened within the above referenced project area. We have reviewed the information you enclosed and are providing comments in accordance with section 7 of the Endangered Species Act (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*).

The federally threatened bog turtle (*Clemmys muhlenbergii*) may be present within the study area. Bog turtles primarily inhabit palustrine wetlands comprised of a muddy bottom or shallow water, and tussocks of vegetation. A survey for bog turtle habitat and bog turtles may be appropriate. These surveys should be conducted at any location the Delaware Natural Heritage and Endangered Species recommends. Upon completion, survey reports should be forwarded to both the Service and the Delaware Natural Heritage and Endangered Species Program for review. If you have not already sent a copy of your request for threatened and endangered species information to the Delaware Natural Heritage and Endangered Species Program please do so. Ms. Holly Niederriter can provide further details regarding the distribution of bog turtles in the state of Delaware, appropriate survey techniques for determining the presence of the species, and a list of qualified bog turtle surveyors. Ms. Niederriter may be contacted at (302) 653-2880 ext 121.

The federally threatened bald eagle (*Haliaeetus leucocephalus*) nests within close proximity to the study area. For further information regarding bald eagle nesting activity, Christopher Heckscher of the Delaware Natural Heritage Program should be contacted at (302) 653-2880 ext 118. Any construction or forest clearing activities within one-quarter mile of an active nest may impact bald eagles. If such impacts may occur, further section 7 consultation with the U.S. Fish and Wildlife Service may be required.

The federally threatened swamp pink (*Helonias bullata*) has been documented to occur within the proposed project area, along Barlow Branch. Swamp pink is a perennial wildflower that inhabits a variety of freshwater wetlands, including spring seepages, swamps, bogs, wet meadows and margins of small streams. We recommend that any wetlands to be filled or otherwise affected by the proposed project be surveyed for the presence of swamp pink by a professional botanist. Enclosed is a list of qualified individuals who have experience with swamp pink surveys. Even if no direct effects to potential swamp pink habitat are identified, any activities proposed to occur in the Barlow Branch drainage area must be designed to minimize impacts of hydrologic changes, siltation, and runoff (quantity and quality) on the watershed. Any such potential impacts on swamp pink habitat should be analyzed as a part of your environmental assessment. If such impacts may occur, further Section 7 consultation with the U.S. Fish and Wildlife Service may be required.

Except for occasional transient individuals, no other federally proposed or listed threatened or endangered species are known to exist within the project area. Should project plans change, or if additional information on the distribution of listed or proposed species becomes available this determination may be reconsidered.

This response relates only to federally protected threatened and endangered species under our jurisdiction. For information on the presence of other rare species, you should contact Karen Bennett of the Delaware Natural Heritage and Endangered Species Program at (302) 653-2880.

An additional concern of the Service is wetlands protection. The Service's wetlands policy has the interim goal of no overall net loss of Delaware Bay's remaining wetlands, and the long term goal of increasing the quality and quantity of the Basin's wetlands resource base. Because of this policy and the functions and values wetlands perform, the Service recommends avoiding wetland impacts. All wetlands within the project area should be identified, and if construction in wetlands proposed, the U.S. Army Corps of Engineers, Philadelphia District should be contacted for permit requirements. They can be reached at (215) 656-6728.

We appreciate the opportunity to provide information relative to fish and wildlife issues, and thank you for your interest in these resources. If you have any questions or need further assistance, please contact Andrew Moser at (410) 573-4537.

Sincerely,



Mary J. Ratnaswamy, Ph.D.
Program Supervisor, Threatened and Endangered Species

cc: Holly Niederriter, Delaware Natural Heritage Program, Smyrna, DE
Christopher Heckscher, Dept of Natural Resources & Environmental Control, Smyrna, DE
Bill McAvoy, Delaware Natural Heritage Program, Smyrna, DE
Richard Hassel, Chief, Application Section I, COE, Philadelphia, PA

**SURVEY CONTACTS
FOR THE
SWAMP PINK
(*Helonias bullata*)**

D. Daniel Boone
8111 Chestnut Avenue
Bowie, MD 20715
301-464-5199

David Maddox
The Nature Conservancy
Science Division
1815 North Lynn Street
Arlington, VA 22209
703-841-5383

Jan Reese
Environmental Regulations Consultant
P.O. Box 298
St. Michaels, MD 21663

Dr. Donna Ware
Department of Biology
The College of William and Mary
Williamsburg, VA 23187
757-221-2213

Mark Strong
Smithsonian Institution
Washington, DC
202-357-4570

Phil Sheridan
Botanist
2500 ½ Kensington Avenue
Richmond, VA 23220
804-359-6439

Garrie D. Rouse
Rouse Environmental Services, Inc.
Route 1, Box 25
Alett, VA 23009
804-769-0846

Ted Bradley
George Mason University
Department of Biology
Fairfax, VA 22030-4444
703-993-1050

Catherine Tucker
302 Danray Drive
Richmond, VA 23228
(H) 804-264-6941
(W) 804-786-0450

Inclusion of names on this list does not constitute endorsement by the U.S. Fish and Wildlife Service or any other U.S. Government agency.

JANUARY 23, 1998



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Chesapeake Bay Field Office
177 Admiral Cochrane Drive
Annapolis, MD 21401



December 8, 2005

RECEIVED

JAN 02 2006

RUMMEL, KLEPPER & KAHL, LLP

Mr. Justin T. Reel
Project Scientist
Rummel, Klepper & Kahl, LLP
81 Mosher Street
Baltimore, Maryland 21217-4250

RE: *Request for Additional RTE Information - US301 Project Development, Delaware
Department of Transportation, New Castle County, DE*

Dear Mr. Reel:

This responds to your letter, dated October 20, 2005, requesting information on the presence of species which are federally listed or proposed for listing as endangered or threatened within the above referenced project area. We have reviewed the information you enclosed and are providing comments in accordance with section 7 of the Endangered Species Act (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*).

The federally threatened bog turtle (*Clemmys muhlenbergii*) may be present within the study area. Bog turtles primarily inhabit palustrine wetlands comprised of a muddy bottom or shallow water, and tussocks of vegetation. A survey for bog turtle habitat and bog turtles may be appropriate. These surveys should be conducted at any location the Delaware Natural Heritage and Endangered Species recommends. Upon completion, survey reports should be forwarded to both the Service and the Delaware Natural Heritage and Endangered Species Program for review. If you have not already sent a copy of your request for threatened and endangered species information to the Delaware Natural Heritage and Endangered Species Program please do so. Ms. Holly Niederriter can provide further details regarding the distribution of bog turtles in the state of Delaware, appropriate survey techniques for determining the presence of the species, and a list of qualified bog turtle surveyors. Ms. Niederriter may be contacted at (302) 653-2880 ext 121.

The federally threatened swamp pink (*Helonias bullata*) has been documented to occur in close proximity to the proposed project area, south of Muddy Run. Swamp pink is a perennial wildflower that inhabits a variety of freshwater wetlands, including spring seepages, swamps, bogs, wet meadows and margins of small streams. We recommend that any wetlands to be filled or otherwise affected by the proposed project be surveyed for the presence of swamp pink by a professional botanist. Enclosed is a list of qualified individuals who have experience with

swamp pink surveys. Even if no direct effects to potential swamp pink habitat are identified, any activities proposed to occur in the Barlow Branch drainage area must be designed to minimize impacts of hydrologic changes, siltation, and runoff (quantity and quality) on the watershed. Any such potential impacts on swamp pink habitat should be analyzed as a part of your environmental assessment. If such impacts may occur, further Section 7 consultation with the U.S. Fish and Wildlife Service may be required.

Except for occasional transient individuals, no other federally proposed or listed threatened or endangered species are known to exist within the project area. Should project plans change, or if additional information on the distribution of listed or proposed species becomes available this determination may be reconsidered.


This response relates only to federally protected threatened and endangered species under our jurisdiction. For information on the presence of other rare species, you should contact Karen Bennett of the Delaware Natural Heritage and Endangered Species Program at (302) 653-2880.

An additional concern of the Service is wetlands protection. The Service's wetlands policy has the interim goal of no overall net loss of Delaware Bay's remaining wetlands, and the long term goal of increasing the quality and quantity of the Basin's wetlands resource base. Because of this policy and the functions and values wetlands perform, the Service recommends avoiding wetland impacts. All wetlands within the project area should be identified, and if construction in wetlands proposed, the U.S. Army Corps of Engineers, Philadelphia District should be contacted for permit requirements. They can be reached at (215) 656-6728.

We appreciate the opportunity to provide information relative to fish and wildlife issues, and thank you for your interest in these resources. If you have any questions or need further assistance, please contact Andrew Moser at (410) 573-4537.

Sincerely,



 Mary J. Ratnaswamy, Ph.D.
Program Supervisor, Threatened and Endangered Species

Enclosure

cc: Holly Niederriter, Delaware Natural Heritage Program, Smyrna, DE
Christopher Heckscher, Dept of Natural Resources & Environmental Control, Smyrna, DE
Bill McAvoy, Delaware Natural Heritage Program, Smyrna, DE
Richard Hassel, Chief, Application Section I, COE, Philadelphia, PA

**SURVEY CONTACTS
FOR THE
SWAMP PINK
(*Helonias bullata*)**

D. Daniel Boone
8111 Chestnut Avenue
Bowie, MD 20715
301-464-5199

David Maddox
The Nature Conservancy
Science Division
1815 North Lynn Street
Arlington, VA 22209
703-841-5383

Jan Reese
Environmental Regulations Consultant
P.O. Box 298
St. Michaels, MD 21663

Dr. Donna Ware
Department of Biology
The College of William and Mary
Williamsburg, VA 23187
757-221-2213

Mark Strong
Smithsonian Institution
Washington, DC
202-357-4570

Phil Sheridan
Botanist
2500 ½ Kensington Avenue
Richmond, VA 23220
804-359-6439

Garrie D. Rouse
Rouse Environmental Services, Inc.
Route 1, Box 25
Alett, VA 23009
804-769-0846

Ted Bradley
George Mason University
Department of Biology
Fairfax, VA 22030-4444
703-993-1050

Catherine Tucker
302 Danray Drive
Richmond, VA 23228
(H) 804-264-6941
(W) 804-786-0450

Inclusion of names on this list does not constitute endorsement by the U.S. Fish and Wildlife Service or any other U.S. Government agency.

JANUARY 23, 1998



Robert L. Ehrlich, Jr., Governor

Michael S. Steele, Lt. Governor

C. Ronald Franks, Secretary

December 7, 2005

Mr. Justin T. Reel
Rummel, Klepper & Kahl, LLP
81 Mosher Street
Baltimore, MD 21217-4250

RE: Environmental Review for US 301 Project Development, Delaware Department of Transportation, Cecil County, Maryland.

Dear Mr. Reel:

The Wildlife and Heritage Service has determined that there are no State or Federal records for rare, threatened or endangered species within the boundaries of the project site as delineated. As a result, we have no specific comments or requirements pertaining to protection measures at this time. This statement should not be interpreted however as meaning that rare, threatened or endangered species are not in fact present. If appropriate habitat is available, certain species could be present without documentation because adequate surveys have not been conducted. It is also important to note that the utilization of state funds, or the need to obtain a state authorized permit may warrant additional evaluations that could lead to protection or survey recommendations by the Wildlife and Heritage Service. If this project falls into one of these categories, please contact us for further coordination.

Thank you for allowing us the opportunity to review this project. If you should have any further questions regarding this information, please contact me at (410) 260-8573.

Sincerely,

Lori A. Byrne,
Environmental Review Coordinator
Wildlife and Heritage Service
MD Dept. of Natural Resources

ER #2005.2431.ce

RECEIVED

DEC 12 2005

RUMMEL, KLEPPER & KAHL, LLP

Tawes State Office Building • 580 Taylor Avenue • Annapolis, Maryland 21401

410.260.8DNR or toll free in Maryland 877.620.8DNR • www.dnr.maryland.gov • TTY users call via Maryland Relay

State of Delaware
Historical and Cultural Affairs

21 The Green
Dover, DE 19901-3611

Phone: (302) 736.7400

Fax: (302) 739.5660

October 7, 2005

Mr. Robert Kleinburd
Division Program Manager
Federal Highway Administration
J. Allen Frear Federal Building
300 South New Street
Dover, DE 19904-6726

RE: US 301 Corridor Study – Alternatives

Dear Mr. Kleinburd:

At the resource agency meetings held this summer, DelDOT has sought comments on the Alternatives being considered for the US 301 Corridor project. With DelDOT's recent submittal of the revised impacts matrix, including information derived from the archaeological predictive model, this office now has sufficient information on which to base such comments. Since it is uncertain when the next resource agency meeting for this project will occur, this office is offering written comments for FHWA and DelDOT to consider as the analysis of the alternatives continues.

Please note that these comments are based primarily on the data contained in the revised impact matrix, received by this office on September 26, 2005. The architectural evaluation survey report, which conveys the consultant's specific recommendations on which resources are eligible for listing in the National Register of Historic Places, is still under review by this office. Also, this office has just received the revised archaeological predictive model report. The views expressed in this letter may be revised after this office completes its review of these reports.

The matrix identifies several categories of cultural resource issues. Of these, this office considers the following as the most critical categories:

- properties listed in or eligible for the National Register of Historic Places which may be physically affected (potential "4(f)" properties);
- properties listed in or eligible for the National Register of Historic Places which may be subject to visual or audible intrusions, significant changes of setting, or other such indirect adverse effects;

DATE RECEIVED

OCT 17 2005

RUMMEL, KLEPPER & KAHL, LLP



- surveyed properties (CRS) – including buildings and structures built prior to 1962, historic districts, objects, and known archaeological sites – which may be physically or indirectly affected;
- areas with High potential for Prehistoric and/or Historic period archaeological sites, as defined by the archaeological predictive model which may be physically affected; and
- cemeteries which may be physically or indirectly affected.

With the exception of “No Build”, all of the Alternatives presented to date are likely to adversely affect such known and potential historic properties. However, it is understood that DelDOT views the “No Build” alternative as not viable, as it would not meet the project’s “Purpose and Need” defined through the National Environmental Policy Act review process.

The “Build” Alternatives can be characterized by their relative degree and nature of potential effects to historic properties. This office views those alternatives which have overall fewer potential effects as “satisfactory” for the purposes of being carried forward for further analysis. From this perspective, specific comments on the Alternatives are given below.

Brown Alternatives (North and South):

In most of the critical cultural resource categories noted above, the Brown Alternatives have fewer potential impacts. This is particularly the case for above-ground resources and areas with historic archaeological potential. An exception is that the Brown routes have relatively high impacts to areas with prehistoric archaeological potential. Overall, this office views these alternatives as “satisfactory”, as defined above.

Green Alternatives (North and South)

When compared with the data on all of the other alternatives, the Green Alternatives generally fall in the middle of the range of potential effects on historic properties. Like the Brown Alternatives, the Green routes have relatively high impacts to areas with prehistoric archaeological potential. However, unlike the Brown routes, the Green Alternatives also pose relatively high potential effects on historic buildings. This office views these alternatives as “satisfactory”, as defined above, but recommends consideration of additional designs that would avoid or minimize the effects on historic buildings, in particular.

Yellow, Orange and Purple Alternatives:

The Yellow, Orange & Purple alternatives could have significant physical, visual, audible and other adverse effects on above-ground resources, including many that are already listed in the National Register of Historic Places. Yellow and Orange could affect two cemeteries, as well. Although these alternatives could have fewer impacts on areas with prehistoric archaeological potential, this office’s view of the Yellow, Orange and Purple alternatives is that they pose an unsatisfactory level of potential effects on historic properties. DelDOT has recommended that the Orange Alternative be dropped from further study; this office supports that recommendation.

Blue Alternatives (North and South):

Strictly by the data in DelDOT's matrix, the Blue Alternatives have fewer potential impacts in several critical cultural resource categories. However, as noted in the matrix, the cultural resource data for these Alternatives are incomplete. There are considerations beyond the numbers as well.

Because the projected routes would cross less intensively developed areas, the Blue Alternatives could significantly alter the setting of historic properties (potential historic landscapes). This office raised similar concerns about the "South Ridge" route in the first US 301 Corridor study. Subsequent development in that area has diminished such concerns.

Additionally, local concern about the Blue Alternatives will likely reopen the controversial issue of historic properties in "the Levels" area. As you may be aware, the initial study and nomination of the Levels Historic District was abandoned in 1985, at the request of land owners in the designated area who expressed this desire at a public hearing. However, this office recently received inquiries from an historic property owner concerned about the Blue routes' effects on the Levels area. Whether this reflects a general shift in the sentiment of area land owners is unknown. To date, DelDOT's consultants have not completed a re-evaluation of this area, so it is unclear if a viable district still remains here.

Although the information is not complete, this office believes the Blue Alternatives may pose an unsatisfactory level of potential effects on historic properties. DelDOT has recommended that these Alternatives be dropped from further study. This office does not object to that recommendation.

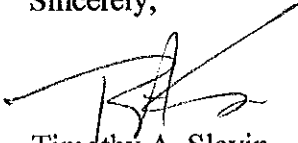
Red Alternative

This alternative is essentially DelDOT's preferred alternative from the previous US 301 Corridor study. At the time of the earlier study, this office viewed the section south of the C & D Canal as preferable to other alternatives considered, but viewed the section north of the Canal as less favorable than other alternatives considered. Concerns about the north section were due to potential effects on several National Register listed properties, including the Cooch's Bridge Historic District. The current matrix data for the Red Alternative are incomplete, but it appears that these conditions still exist in the north section, at least in part. Therefore, this office views the Red Alternative, north of the Canal, as posing an unsatisfactory level of potential effects on historic properties. DelDOT has recommended that the Red Alternative be dropped from further study; this office supports that recommendation.

Thank you for your consideration of these comments. This office looks forward to the continuing consultation on this project. Comments on the draft architectural survey report and revised archaeological predictive model will be provided to you presently. In the interim, if you have any questions, please do not hesitate to contact Gwen Davis, who is conducting the review of this project in consultation with the Division Director and Deputy Director.

Letter to R. Kleinburd
October 7, 2005
Page 4

Sincerely,

A handwritten signature in black ink, appearing to read 'T. Slavin', with a long horizontal stroke extending to the left.

Timothy A. Slavin
Director/State Historic Preservation Officer

cc: Edward Bonner, Philadelphia District, U.S. Army Corps of Engineers
Stephen Marz, Deputy Director, Division of Historical and Cultural Affairs
Robert Taylor, Assistant Director, Engineering Support, DelDOT
Therese M. Fulmer, Manager, Environmental Studies, DelDOT
Mark Tudor, Project Manager, Project Development North II, DelDOT
Michael C. Hahn, Senior Highway Planner, DelDOT
Gwenyth A. Davis, Archaeologist, SHPO, Division of Historical & Cultural Affairs
Robin Bodo, National Register Coordinator, SHPO, Division of Historical & Cultural Affairs
Stephanie Bruning, Preservation Planner, New Castle County Dept. of Land Use
Bill Hellmann, RK&K, Inc.
Katry Harris, RK&K, Inc.

State of Delaware
Historical and Cultural Affairs

21 The Green
Dover, DE 19901-3611

Phone: (302) 736.7400

Fax: (302) 739.5660

October 14, 2005

DATE RECEIVED

OCT 24 2005

RUMMEL, KLEPPER & KAHL, LLP

Ms. Therese M. Fulmer, Manager
Environmental Studies
Delaware Department of Transportation
800 Bay Road, P.O. Box 778
Dover, DE 19904

RE: US 301 Corridor Study – architectural evaluation survey report

Dear Ms. Fulmer:

Concurrent with your staff, this office is reviewing the above-referenced survey report, prepared by DelDOT's consultant, A.D. Marble. Overall, the report indicates a solid effort on a large, complex project with significant time constraints. This office commends the consultant's efforts to date.

The survey included a reassessment of properties previously listed or found eligible for listing in the National Register of Historic Places. The consultant recommends that all but four of these resources still meet the criteria for listing. The survey also entailed evaluating the eligibility of circa 130 properties built prior to 1963. The consultant has recommended that six of these properties are eligible for listing.

This office generally agrees with the recommendations reviewed thus far. However, in discussing the matter with Mike Hahn of your office, it is apparent that both your staff and this office found several aspects of the survey results that need to be clarified. For this office, one question in particular is the level of survey conducted for the Brown Alternatives. It is not clear from the report if all areas that may be affected by the Brown Alternatives were covered by the intensive level survey.

Given the nature of this project, it is important that the results of survey are fully supported, and that concurrence is reached as expeditiously as possible. Therefore based on discussion with your staff, this office would like to defer formal comment on the eligibility determinations, and meet to review and resolve the critical issues with the report. Meetings on the US 301 project had been previously scheduled for October 25th and/or 26th. Please confirm that these dates are still available for this purpose. Thank you.

Sincerely,



Gwenyth A. Davis
Archaeologist



Letter to T. Fulmer
October 14, 2005
Page 2

cc: Robert Kleinburd, Division Program Manager, Federal Highway Administration
Stephen Marz, Deputy Director, Division of Historical and Cultural Affairs
Mark Tudor, Project Manager, Project Development North II, DelDOT
Michael C. Hahn, Senior Highway Planner, DelDOT
Patrick Carpenter, Historian, DelDOT
Robin Bodo, National Register Coordinator, SHPO, Division of Historical & Cultural Affairs
Stephanie Bruning, Preservation Planner, New Castle County Dept. of Land Use
Katy Harris, RK&K

State of Delaware
Historical and Cultural Affairs

21 The Green
Dover, DE 19901-3611

Phone: (302) 736.7400

Fax: (302) 739.5660

January 6, 2006

Mr. Robert Kleinburd
Division Program Manager
Federal Highway Administration
J. Allen Frear Federal Building
300 South New Street
Dover, DE 19904-6726

RE: US 301 Corridor Study – draft architectural survey report, and supplemental materials;
determinations of eligibility and report content

Dear Mr. Kleinburd:

As you are aware, this office has been working with DelDOT's Environmental Studies staff and DelDOT's consultant, A.D. Marble, to review architectural surveys for the above-referenced project. Consultation is ongoing, and additional materials were submitted for review near the end of December. Nevertheless, this office would like to offer comments on the evaluations (as received through November 2005) and the content of the "Determination of Eligibility Report" for your consideration at this time.

Evaluations of a number of the surveyed properties were discussed by staff of this office, DelDOT and its consultants during a field review held November 4, 2005. In addition, on December 8, 2005, this office provided DelDOT with a draft list of surveyed properties, derived from various tables in the survey report, for which clarification on the status of the survey was needed. DelDOT's e-mail dated December 15 resolved the majority of these questions, but noted that the consultant should work to confirm that properties initially identified as located outside of the Area of Potential Effect are, in fact, outside these limits. This step may need to be repeated, as the project alternatives are refined.

Evaluations:

To date, DelDOT has submitted survey information on a total of 150 properties that were still extant at the time of the survey. In terms of this office's review, these properties can be divided into four categories:

1. Concur with the consultant's recommendations on eligibility for listing in the National Register of Historic Places and/or historic boundaries, without further comment (55 properties);



2. Concur with the consultant's recommendations on eligibility and/or historic boundaries, but with comments that should be addressed in the final report (58 properties);
3. Cannot yet concur with the consultant's recommendations on eligibility and/or historic boundaries, as substantive issues in the evaluations need to be resolved (19 properties); and
4. Pending review of new or supplemental information (18 properties).

The results of this office's review of the evaluations are listed in the attached chart. Comments on some properties refer to specific concerns with the report content, particularly regarding the historic contexts and/or the manner in which eligibility criteria were applied. Such concerns are discussed in more detail in comments on the report content.

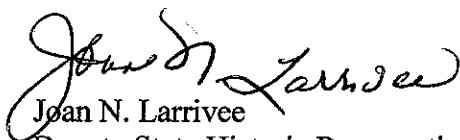
Report Content:

This office also reviewed the report content for its completeness and clarity, in accordance with the federal *Secretary of the Interior's Standards and Guidelines for Evaluation*, as well as this office's *Guidelines for Architectural and Archaeological Surveys in Delaware*. The enclosed comments identify information that should be added and/or clarified in the report, to fully meet these standards and guidelines. These comments pertain to both substantive and technical revisions. In addition, note that DelDOT's staff also previously provided comments which similarly address both substantive and technical issues with the report. It would be helpful if the consultant could address the substantive comments (e.g., pertaining to historic contexts) as soon as possible, to assist in making the final eligibility determinations.

As noted in previous correspondence, overall the "Determination of Eligibility Report" demonstrates a solid effort made by the consultants, on an extensive and complex project. The efforts of DelDOT's staff have also been invaluable. The concerns outlined in the enclosed comments are resolvable through continued consultation.

This office will complete its review of the new and supplemental materials received to date within the next few weeks. In the interim, if you have any questions about the enclosed comments, or would like to meet to discuss the evaluations of specific properties, please do not hesitate to contact Gwen Davis and Robin Bodo, who are reviewing this project. Thank you.

Sincerely,



Joan N. Larrivee
Deputy State Historic Preservation Officer

Letter to R. Kleinburd
January 6, 2006
Page 3

Enclosures: Comments on individual eligibility determinations (chart)
Comments on report content

cc: Stephen Marz, Deputy Director, Division of Historical & Cultural Affairs
Robert Taylor, Assistant Director, Engineering Support, DelDOT
Therese M. Fulmer, Manager, Environmental Studies, DelDOT (w/enclosures)
Mark Tudor, Project Manager, Project Development North II, DelDOT
Michael C. Hahn, Senior Highway Planner, DelDOT (w/enclosures)
Patrick Carpenter, Historian, DelDOT (w/enclosures)
Gwenyth A. Davis, Archaeologist, SHPO, Division of Historical & Cultural Affairs
Robin Bodo, National Register Coordinator, SHPO, Division of Historical & Cultural Affairs
Christine Quinn, Preservation Planner, New Castle County Dept. of Land Use (w/enclosures)
✓Katty Harris, RK&K (w/enclosures)
Barbara Frederick, A.D. Marble (w/enclosures)



DATE RECEIVED

JAN 31 2006

RUMMEL, KLEPPER & KAHL, LLP

STATE OF DELAWARE
DEPARTMENT OF TRANSPORTATION

800 BAY ROAD
P.O. BOX 778
DOVER, DELAWARE 19903

NATHAN HAYWARD III
SECRETARY

January 20, 2005

Mr. Timothy Slavin, Director
Division of Historic and Cultural Affairs
The Green, Suite 21A
Dover, Delaware 19901

Dear Mr. Slavin:

Regarding the US 301 Transportation Improvement Project, the Delaware Department of Transportation's (DelDOT) Environmental Studies Section recently provided your office with the revised draft eligibility determinations and supplemental materials by virtue of an attached cover letter dated 12/22/05. The materials, which included a total of 18 properties, are based on our 11/4/05 field overview and draft comments received by your office on 12/8/05. The supplemental materials were distributed to your office for 30-day eligibility and satisfaction review. Due to mailing delays and the holidays, we anticipate that the 30-day eligibility and material review be complete by 1/27/06.

As such, our office is providing written comments for your information on the recent submissions within its 30-day time period. We trust your office may agree with comments for adequacy. As mentioned, we anticipate that your office provide any further comments by 1/27/06. If failure to provide valid written comment, our office will consider the eligibility assessments and supplemental material are valid and accurate. We will continue Section 106 consultation and/or revision needs under the DelDOT written comments and coordination.

In summary, the consultants provided supplemental information and eligibility assessments for the US 301 cultural resource study. For our records and under 36 CFR 800.4, our office concurs with the supplemental materials for the 18 subject properties *conditioned* that a number of technical clarifications are still necessary. The technical clarifications and other minor needs can be addressed in the final revised document.

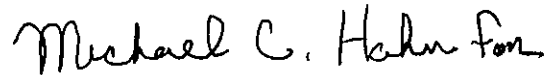
However, our office will still go in record that it does not necessarily agree with the consultant's eligibility recommendation for the A00026, White Brothers Supply property. The latest revisions did not adequately address earlier comments and new questions arise. Comments regarding this property are also enclosed.



Letter to T. Slavin
1/20/2006
Page 2 of 2

If there are any questions, please contact Michael C. Hahn at (302) 760-2131.
Thank you again for your continued cooperation.

Sincerely,

A handwritten signature in black ink that reads "Michael C. Hahn" followed by a stylized flourish.

Therese M. Fulmer, Manager
Environmental Studies

TMF/mh (attachment)

cc: Robert Kleinburd, FHWA Reality Officer (w/attachment)
Stephen Marz, Deputy Director, Division of Historic and Cultural Affairs
Gwen Davis, SHPO (w/attachment)
Robin Bodo, SHPO (w/attachment)
Robert Taylor, Assistant Director, Engineering Support
Mark Tudor, Project Manager, North II (w/attachment)
Patrick Carpenter, Environmental Studies
Nathaniel Delesline, Environmental Studies
Christine Quinn, NCC Dept. of Land Use (w/attachment)
~~Katry Harris, R.K. & K Engineers, Inc. (w/attachment)~~
Barbara Frederick, A.D. Marble & Co. (w/attachment)
File

Comments on Supplemental Eligibility Documentation

The materials are based on revisions or clarifications from DelDOT/SHPO comments on earlier consultation and on 11/4/05 field view with SHPO and New Castle County Preservation Planner.

In sum DelDOT qualified staff concurs with the exception to A00026 White Brothers Supply to all supplemental materials. This includes new/clarified eligibility recommendations, revised/proposed boundaries, new property materials, or additional narrative write-up.

Also, given the necessary technical revisions in absence of the 3 remaining criteria not applied to the property to A00203, Beverly and Laura Pleasanton House, this property is thought to be not eligible. We indicated that the property is not eligible under any of the 4 criteria, but only explain in detail criteria C. Need to simply iterate on other criteria applied.

Within the overall report: For future revisions and within the conclusions and recommendations of our report (as true with other properties that we looked at) we need to indicate that SHPO needs to revise database to ensure that reverse eligibility recommendations are undertaken for records & for any National Park Service needs.

A00026, White Brothers Supply

In addition to other comments, this property's eligibility was not applied or discussed as a potential roadside commercial eligible property. The Quonset huts with operations have been functional as commercial ventures for 50+ years. The criteria application under A only indicates that they are associated with the military.

Also, in the criteria summary, we indicate that Quonset huts are easily movable, but then we then disembarb its potential eligibility as they have been removed from their original location resulting in the loss of integrity of association and feelings. Then, we indicate that other examples (also moved, altered, and adapted for other uses) are better represented - suggesting that they might be the known one's eligible.

With exception to the foam roof covering and overall size differences, there are no key elemental differences in between the DelDOT and Philadelphia Pike Quonset huts and the White Bother's supply huts. All have adaptive uses in the interior alterations, functions, facades; each end units of the building are missing materials and/or altered.

Missing application of Criterion D. Is the building's construction readily known?

Is the showroom (off N half of west hut's west wall) really a circa 2000 addition or just a renovation for a pervious showroom or office?

Please take the green dot off the site plan in CRS # 9.

N00112, Summerton

Is the tax parcel map for the proposed or recommended boundary still curved as illustrated in the 2000 ortho?

N05131, T. J. Houston Farm

Section 7, page 1, first paragraph: place or use specific date (in parenthesis or not) on when removal of buildings in the rear occurred? We say within the past year, but when reader view this, what is the date?

Section 7, page 2, Landscaped Features and Setting: Reword: I did not know that tree lines running along the creek to the south might suggest that they are historic landscaped features? The area to the south of the property is essentially wetlands or steep slopes that can't be farmed or cultivated. So, why are we indicating that they are historic landscaped features as this also suggests inclusion within the boundary (or another CRS form - landscape)? How mature are the tree lines along the driveway as we should indicated any changes along the driveway pattern if we are to include the driveway areas as part of the boundary.

Section 8, page 3, end of 1st paragraph: Need date of recently removed building since we suggest earlier that we know when this occurred.

General Question in section 8 – & this applies to all the revised eligibility write-ups: Why do we include the other applications of criteria consideration (as not eligible) in the nomination forms? DelDOT ok with this, but it is not necessarily needed in this forum.

Need a proposed NR boundary

Does the 1849 Rea and Price Map list/include a dot that a property/building was located on the property? If not and from the tax assessments, it appears that no structure was built until later in time. From the write up and the research, it appears that the house (and maybe not the main/front block) was built between 1857 and 1861. Assuming that Rea and Price map does not include structure (probably the rear ell) and until further research can clarify ambiguity, the circa date is more like 1860.

Please Remove Green Dot of all aerial maps (NR proposed boundary and CRS #9) and USGS.

N05153 R.G. Hayes House

Please remove Green Dot off maps and revise maps according to the description and justification. We indicated a portion of tax map, but write up illustration shows the entire parcel. There seems to be a difference in the NR boundary and the tax map.

Check labels on maps.

N05186 Cleaver Farm/Biddle Mansion Farm

Please indicate when photos were taken or received from NCC planning as this suggests differences in condition on when survey was taken and when NCC undertook their assessment of the property.

Due to subdivision of the property and # of changes, is an update form needed for both properties. Appears so.

Please list dates on when NCC preservation planning staff (not the Planning Commission – unless it was) undertook interview with property owner or provided information based on what time frame. Please check this throughout.

Please reiterate in NR Evaluation, second paragraph that the property has been subdivided, so essentially we are looking at two properties. Indicated that each property is not eligible in its own right or collectively together.

Need some summary discussion of 11/20/05 filed meeting included in NR evaluation portion.

N05195 J. Houston Farm NR form

From a future readers perspective, what is meant by “within the study area,” indicated in Section 8, page 1? This wording is ok in the eligibility assessment, but not in the NR nomination form.

Section 8, page 2, second paragraph: “By county standards.....” This should be by Saint George’s Hundred records or in comparison of the hundred.

Please remove green dots off aerials and revise NR recommended boundary to correspond with the driveway and ensure measurements are accurately depicted and illustrated. Essentially, what was discussed in the field on 11/20/05 was not fully undertaken in the draft revision. Although a USGS map makes the boundary revisions, does Marble still feel that the boundary includes only an area around house? If so, then need some written description on why driveway was not included.

N05196 Old Fort Dairy

Need summary discussion/conclusion of November 20th meeting in *National Register Evaluation* portion of this assessment.

N05221 C. Polk Estate

Please remove green dots off aerials and revise NR recommended boundary to correspond with the driveway and ensure measurements are accurately depicted and illustrated. Essentially, what was discussed in the field on 11/20/05 was not fully undertaken in the draft revision. Although the boundary change is shown in the USGS map, does Marble still feel that the boundary includes only an area around house? If so, then need some written description on why driveway was not included.

A00046, Lester and Thelma Biddle House

Some minor grammatical/graphic changes needed. DelDOT to undertake.

A00226 John Eliason Farm

Checking CRS form #1 for grammatical/graphic change. DelDOT to undertake.

Comments for Supplemental Eligibility Documentation

A00024, Atwell and Edna Johnson House

-List adjacent CRS properties.

- A mid-twentieth century property may have a high degree of integrity for its type and period, but not be significant (would still need associated documented record, etc).

Integrity is relative to each type (see previous report comments).

A00026, White Brothers Supply Company

Although evaluation shows the loss of integrity of the huts and their relocation affects integrity, the phrase "...where they likely served in a military capacity during World War II" indicates an association with an important event in American history that has not been discussed in the prior evaluation or discussions. In the discussion for Criterion A, it seems if there is a WW II association, location not the most critical aspect of integrity. Further, in narrative, indicates that Quonsets were temporary in concept and were often meant for relocation. Therefore, if associated with documented WWII functions, relocation in of itself would not necessarily cause such a loss of integrity that huts are not eligible. Other aspects of integrity loss as indicated in the evaluation may preclude eligibility, but the integrity discussion for Criterion A focuses primarily on the relocation of the huts.

In total, overall integrity loss may preclude eligibility even for WWII association, but need to make this specific link. If some level of further research on the huts' potential WWII association is not conducted, then a clear explanation of why this is not warranted should be included in the evaluation. In addition, over and above the loss of historic location, the evaluation should explain why overall integrity loss would cause not to be eligible even if WWII association.

N05153, R.G. Hayes House

NR boundary aerial map does not correspond to boundary description and justification.

N05195, J. Houston Farm

NR boundary aerial does not correspond to boundary description and justification.

N05221, C. Polk House

NR boundary aerial does not correspond to boundary description and justification.

N05223, Samuel Price Farm

Agree not eligible, based on unsympathetic modern rear addition, deteriorated condition, and better examples of similar type and age in project area. Might be helpful here to draw parallels to other resources determined not eligible/eligible in the project to show how it compares in terms of integrity. T. Houston for instance, likely retains its earlier ell while also maintaining more integrity on the main block.

**US 301 Revised Eligibility Documentation
Comments**

CRS No. A00026

1. Typical character-defining features for Quonset huts: one feature listed, as typical multi pane, fixed windows on the sides of the building. It should be noted that the Quonset hut located at the DelDOT yard in Dover doesn't have the side windows. The side window rather than a typical design may be an added feature depending on the use of the structure.

CRS No. N05186

2. Interior alterations was given as one of the reasons for insufficient integrity of design, material and workmanship making the structure not eligible for National Register consideration. Interior changes should not affect the National Register eligibility of a structure.

State of Delaware
Historical and Cultural Affairs

21 The Green
Dover, DE 19901-3611

Phone: (302) 736.7400

Fax: (302) 739.5660

January 27, 2006

DATE RECEIVED

FEB 02 2006

Mr. Robert Kleinburd
Division Program Manager
Federal Highway Administration
J. Allen Frear Federal Building
300 South New Street
Dover, DE 19904-6726

RUMMEL, KLEPPER & KAHL, LLP

RE: US 301 Corridor Study – draft architectural survey, determinations of eligibility; new evaluations and supplemental materials on 18 properties

Dear Mr. Kleinburd:

As you are aware, this office has been working with DelDOT's Environmental Studies staff and DelDOT's consultant, A.D. Marble, to review architectural surveys for the above-referenced project. On January 6, 2006, this office provided formal comments on the survey report and the evaluations of 132 properties, noting that review of recently submitted evaluations of 18 properties was still pending. As indicated in an e-mail sent on January 20th (within the 30 day review period), this office's review of the 18 evaluations is now complete, with comments as follows:

1. Concur with the consultant's recommendations on eligibility for listing in the National Register of Historic Places and historic boundaries, without further comment (8 properties);
2. Concur with the consultant's recommendations on eligibility and/or historic boundaries, but with comments that should be addressed in the final report (8 properties); and
3. Cannot yet concur with the consultant's recommendations on eligibility and/or historic boundaries, as substantive issues in the evaluations need to be resolved (2 properties)*.

More specific comments on the evaluations are indicated in the attached chart.

On January 25th, this office also received comments from DelDOT's staff on the 18 evaluations. DelDOT's staff has agreed with the consultant's recommendations on all but one of the properties (A00026 White Brother's Supply), and has additional technical comments on several others. DelDOT's letter requests written comments on the 18 properties by January 27th. This office trusts that the January 20th e-mail, this letter and attached document will suffice.



Letter to R. Kleinburd
January 27, 2006
Page 2

Between DelDOT's comments and those of this office, further consultation on the eligibility and/or boundary recommendations is needed for a minimum of 21 properties: 3 from the current review (2 from SHPO's review and 1 from DelDOT's review) and 18 from the original survey report. DelDOT's recent letter does not acknowledge receipt of this office's January 6, 2006, comments, which identified 18 properties for which substantive issues need to be addressed. DelDOT's previous comments (received via e-mail October 31, 2005) did not specifically indicate its staff's concurrence or non-concurrence with those evaluations.

It is the understanding of this office that DelDOT will soon set a meeting to discuss the architectural survey results to date. Please note that today we received documentation on four additional properties and narrative discussion of a potential rural historic district. It would be helpful if DelDOT could identify any additional evaluations it expects to be submitted in the near future.

This office looks forward to continuing the consultation. In the interim, if you have any questions about the enclosed comments, please do not hesitate to contact Gwen Davis and Robin Bodo, who are reviewing this project. Thank you.

Sincerely,


Joan N. Larrivee
Deputy State Historic Preservation Officer

Enclosure

cc: Stephen Marz, Deputy Director, Division of Historical & Cultural Affairs
Robert Taylor, Assistant Director, Engineering Support, DelDOT
Therese M. Fulmer, Manager, Environmental Studies, DelDOT (w/enclosure)
Mark Tudor, Project Manager, Project Development North II, DelDOT
Michael C. Hahn, Senior Highway Planner, DelDOT (w/enclosure)
Patrick Carpenter, Historian, DelDOT (w/enclosure)
Gwenyth A. Davis, Archaeologist, SHPO, Division of Historical & Cultural Affairs
Robin Bodo, National Register Coordinator, SHPO, Division of Historical & Cultural Affairs
Christine Quinn, Preservation Planner, New Castle County Dept. of Land Use (w/enclosure)
✓ Katry Harris, RK&K (w/enclosure)
Barbara Frederick, A.D. Marble (w/enclosure)

* Note: In the January 20th e-mail, this office identified 3 properties for which further consultation was needed. After further review, this number is reduced to 2.

January 27, 2006

**US 301 Architectural Survey
Index to DE SHPO comments on consultant's recommendations:
New Evaluations and Supplemental Materials
(materials received through December 22, 2005)**

1. Concur with the consultant's recommendations on eligibility and historic boundaries without further comment (8 properties): A00046, A00203, A00226, A00232, N-112, N-5153, N-5186, and N-5191.
2. Concur with the consultant's recommendations on eligibility and/or historic boundaries, but with comments that should be addressed in the final report (8 properties): A00024, A00026, A00027, N-5131, N-5196, N-5221, N-5223, and N-5224.
3. Cannot yet concur with the consultant's recommendations on eligibility: A00030 Haman House, an African American resource; and
Cannot yet concur with the consultant's recommendations on historic boundary: N-5195 J. Houston Farm.

January 27, 2006

US 301 Corridor Study:
DE SHPO comments on Evaluations of Individual Properties:
New Evaluations and Supplemental Materials
(materials received through December 22, 2005)

Temp or CRS #	Historic Name	Consultant Recommendation	SHPO Review	SHPO Comments Nature of Further Work Needed (if any)
A00024	A. & E. Johnson House	Not eligible	concur	Relate evaluation more specifically to the established criteria.
A00026	White Bros. Supply	Not eligible	Concur Pending discussion of DeDOT's comments	Context: Future research issues -- need better definition of this property type; e.g., comparison of airplane hangars vs. Quonset huts used for other purposes, plus other barrel-shaped roof structures. Description: technically the corrugated metal is not a "cladding" material, it is part of the wall support.
A00027	R. & M. Wallis House	Not eligible	concur	Relate evaluation more specifically to the established criteria.
A00030	J. & L. Haman Hse.	Not eligible	?????	See 1/6/06 report comments, re: African-American historic context.
A00046	Dwelling, 842 Churchtown Rd.	Not eligible	concur	
A00203	B. & L. Pleasanton Hse.	Not eligible	concur	
A00226	Deeney property	Not eligible	concur	
A00232	Bertha Hobson Chicken Hse.	Not eligible	concur	
N-112	Summerton	Eligible	concur	
		Boundary	concur	

Temp or CRS #	Historic Name	Consultant Recommendation	SHPO Review	SHPO Comments Nature of Further Work Needed (if any)
N-5131	T.J. Houston House	Eligible	concur	DOE, Section 8, p. 4: clarify that the property was evaluated under an agricultural context, but found not eligible under that context.
N-5153	R.G. Hayes House	Boundary	concur	
N-5186	Cleaver/Biddle	Eligible	concur	
N-5191	Rothwell	Boundary	concur	
N-5195	J. Houston Farm	Not Eligible	concur	
N-5196	Old Ford Dairy	Eligible	concur	Boundary: "keyhole" boundaries not ideal; need to discuss other options for drawing boundary.
N-5221	C. Polk Estate	Boundary	concur	Would be helpful if the summary stated up front that advanced deterioration has significantly affected the property's integrity.
N-5223	Samuel Price House	Not eligible	concur	Description still needs work. Please discuss w/Robin.
N-5224	A. Crockett Hse.	Eligible	concur	After further review, we agree that the property is not eligible. Though, in our view, the setting and façade retain some integrity, there isn't a strong case for eligibility when compared to similar properties evaluated for the project.
		Boundary	concur	See 1/6/06 report comments re: application of Criterion D.



U.S. Department
of Transportation

**Federal Aviation
Administration**

Harrisburg Airports District Office
3905 Hartzdale Drive, Ste. 508
Camp Hill, PA 17011
(717) 730-2830 phone
(717) 730-2838 FAX

April 10, 2006

Mark Tudor, P.E.
Group Engineer, Project Development
State of Delaware
Department of Transportation
800 Bay Road
Dover, DE 19903

Re: Route 301 DEIS Alternatives

Dear Mr. Tudor:

Thank you for the opportunity to comment on the four alternatives retained in the Draft Environmental Impact Statement (DEIS) for the Route 301 project. We have reviewed the drawings and the letter you provided from Mr. Finn Nielsen, President, Summit Aviation Incorporated. We generally concur with the comments made by Summit Aviation.

Summit Airport is an important airport in the National Air Transportation System. The airport's proximity to Wilmington, Delaware and Philadelphia, Pennsylvania provides important airport coverage in the Federal Aviation Administration's National Plan of Integrated Airport Systems (NPIAS). Summit Airport is a reliever airport to the congested and delayed Philadelphia International Airport (PHL). As such, Summit Airport provides general aviation access to the National Air Transportation that cannot be readily accommodated at PHL without causing further delays.

Summit Airport's current Airport Layout Plan (ALP), as approved by the FAA, includes an extension of the primary Runway 17/35. Summit Airport has filed plans with the FAA to extend Runway 17/35 to the north by 335 feet, and to the south by 498 feet. Accordingly, we have considered the potential effects of the four alternatives on the planned runway extension, as well as to the existing airport facilities. Based on our preliminary review of the alternatives, it appears that the Brown Alternative may be the only alternative that will adversely affect the Summit Airport. As indicated in your letter of March 2, the Brown Alternative has two options – Brown North and Brown South.

Brown North

As indicated in Summit Aviation's letter of February 16, the Brown North option may adversely impact both the existing Runway 17-35, and proposed extended Runway 17-35.

Vehicles using the Brown North option may penetrate the existing and/or proposed extended Runway 17 34:1 Approach Surface, 40:1 Instrument Departure Surface, and 20:1 Threshold Sitting Surface. Depending on several factors, such as the ability to mitigate a potential hazard, the penetrations may degrade the utility of the existing runway by increasing visibility minimums to possibly restricting use of Runway 17 for daytime operations only.

We did not determine the actual impacts that the Brown North Alternative may have on the current and/or proposed approaches at Summit Airport. Such an analysis will require the Delaware Department of Transportation to file an FAA Form 7460 with the FAA pursuant to Federal Aviation Regulations (FAR) Part 77. Upon receipt of the FAA Form 7460, the FAA will conduct an airspace evaluation and issue a determination. Each FAA line of business, including, Airports, Flight Procedures, and Air Traffic, among other offices, will review the proposed alternatives and comment.

Pursuant to FAR Part 77, the Delaware Department of Transportation will be required to file an FAA Form 7460 prior to constructing either the Brown North or Brown South options due to their close proximity to the airport. In addition, any other alternative selected as the preferred alternative in the DEIS will need to be evaluated using the surfaces identified in FAR Part 77 prior to construction to determine if a Form 7460 is necessary. That said, we highly recommend that a Form 7460 be filed for each of the four alternatives as required by FAR Part 77, including different options under each alternative, prior to completion of the DEIS.

The Brown North option will traverse the Runway Protection Zone (RPZ) of the existing and planned Runway 17 end. We strongly encourage airport owners to acquire sufficient interest in property within the RPZ in order to prohibit incompatible land use.

Finally, the Brown North option will cause a penetration to the Runway Object Free Area of the proposed Runway 17/35 extension, thereby precluding the construction of the full length of the extension currently proposed by Summit Aviation. This impact may be avoidable if the existing pavement was used for the Summit Bridge Farms access Spur and the Right of Way line adjusted accordingly. The Brown North option also impacts the existing Runway 17 by not allowing any space between the Object Free Area and the proposed Summit Bridge Farms access Spur. The space would allow an internal airport vehicle service road and was a condition of the last (2/8/06) Airport Layout Plan approval letter. The condition was imposed in order to address FAA's emphasis on prevention of Aircraft-Vehicle incursions.

Brown South

As indicated in your letter of March 2, the Brown South option will physically impact Summit Airport's runways. Specifically, it appears that the crosswind Runway 11/29 would become too short to allow any aircraft landings or takeoffs and would need to be closed. In addition, the primary Runway 17/35 would need to be shortened by more than 250 feet, assuming the presence of 25-foot light poles and/or highway signs along the proposed Brown South option in the vicinity of the airport. Therefore, it appears that the Brown South option will significantly degrade the utility of the existing airport.

Summit Airport has received Federal grant assistance under the FAA's Airport Improvement Program. In exchange for this assistance, Summit Aviation has agreed to several Federal obligations in the form of

grant assurances as required by Federal law. Among other things, Summit Aviation has agreed that it will not sell, lease, encumber, or otherwise transfer any interest in the airport property without the written approval of the FAA. In addition, Summit Aviation has agreed to operate the airport in a safe and serviceable condition at all time in accordance with its currently approved Airport Layout Plan. Given the apparent significant adverse impacts that the Brown South option may have on the Summit Airport, it is not likely that the FAA will approve the sale of any interest in the airport property for the Brown South option.

If you have any questions regarding our comments please contact Mr. Jim Fels of my office at (717) 730-2833. In addition, Jim Fels is available to assist your office in completing the necessary FAA Form 7460 to obtain a complete airspace determination from the FAA.

Again, thank you for the opportunity to comment.

Sincerely,

Original Signed by:
Sue McDonald, Acting Manager for

Wayne T. Heibeck
Manager

cc: by eMail only:
Michael Kirkpatrick Del DOT Aviation Planner
Finn Neilson, Summit Aviation @ EVY



U.S. Department
of Transportation

**Federal Aviation
Administration**

Harrisburg Airports District Office
3905 Hartzdale Drive, Suite 508
Camp Hill, PA 17011



August 28, 2006

Mark Tudor, P.E.
Group Engineer, Project Development
State of Delaware
Department of Transportation
800 Bay Road
Dover, DE 19903

Dear Mr. Tudor:

Route 301 DEIS Brown-North Alternative;
Airspace Case # 06-AEA-314-NRA Consolidated Reply

This is the Federal Aviation Administration (FAA) aeronautical study response for Airspace Case 06-AEA-314-NRA; Construct the *Brown-North EIS Alternative of the US Highway 301 Project Development* (Brown-North Alternative) at the above referenced airport. The FAA finds the impacts of the Brown-North Alternative objectionable for the reasons discussed below. The FAA's objection is based on the potential degradation of the existing runway utility and the conflicts that result between the Brown-North Alternative and airport planning previously accomplished and depicted on Summit Airport's currently approved Airport Layout Plan (ALP), dated February 8, 2006.

This is a determination with respect to the safe and efficient use of navigable airspace by aircraft, and with respect to the safety of persons and property on the ground. In making this determination, the FAA has considered matters such as the effects the proposal will have on existing or planned traffic patterns of neighboring airports, the existing airspace structure and projected programs of the FAA, the safety of persons and property on the ground, and airport proposals on file with the FAA.

Summit Airport is an important airport in the National Air Transportation System. The airport's proximity to Wilmington, Delaware and Philadelphia, Pennsylvania provides important airport coverage in the Federal Aviation Administration's National Plan of Integrated Airport Systems (NPIAS). Summit Airport is a reliever airport to the congested and delayed Philadelphia International Airport (PHL). As such, Summit Airport provides general aviation access to the National Air Transportation that cannot be readily accommodated at PHL without causing further delays.

Should the Delaware Department of Transportation (Del DOT) elect to build any of the alternatives proposed, pursuant to Federal Aviation Regulation (FAR) Part 77.13, the Del DOT will likely be required to notify the FAA of the construction. Part 77.13 defines the proximity of the proposal to an airport that determines if the form needs to be submitted. If required by Part 77.13, notification would be provided 60-90 days prior to actual construction by using FAA's Form 7460-1 *Notification of Construction or Alteration* available on the web.

Vehicles using the Brown-North Summit Bridge Farms Access Road will penetrate or encroach upon the following Airport Design Standards, Approach, or Departure Surfaces for Runway 17:

1. 34:1 Approach Surface. We have determined that there will be no Instrument Flight Rules (IFR) effect to current approaches; but that future improvements to instrument approach minimums may not be possible.
2. 40:1 Instrument Departure Surface. We have determined that there will be no IFR effect to current departures; but that future improvement to instrument departure minimums may not be possible. During visual conditions, the proposed Summit Bridge Farms Access Road will necessitate an increase in aircraft climb performance with or without the north runway extension depicted on the current conditionally approved Airport Layout Plan. It will also require an increased awareness of the roadway and its embankment by the pilot during preflight briefing. Additional aircraft performance and pilot vigilance to see and avoid vehicles on the new Summit Bridge Farms Access Road and DE896 will be needed during the initial climb phase of flight. While not insurmountable, the takeoff and initial climb phases are critical phases of operation. We would expect Del DOT to assist the FAA in documenting the impacts of alternatives to meet the Airport Design Standards, Approach, or Departure Surfaces for Runway 17 should the Brown-North Alternative be selected.
3. 20:1 Threshold Siting Surface. To meet the 20:1 Threshold Siting Surface, the existing runway will need to be shortened to allow over flight of vehicles on the realigned and elevated Summit Bridge Farms Access Road. We believe this will degrade the current utility of the existing runway. To mitigate this penetration and maintain the existing runway length, the runway will need to be shifted approximately 400 feet to the south. This mitigation will preclude 400' of the proposed south runway extension currently depicted on the conditionally approved Airport Layout Plan.
4. The Runway Protection Zone (RPZ). The Brown-North option will traverse the existing and future RPZ of Runway 17. The RPZs function is to enhance the protection of people and property on the ground. This is achieved through airport owner control over RPZs. Therefore, the FAA discourages public roadways in the RPZ and strongly encourages airport owners to acquire fee interest in property within the RPZ. Accordingly, we discourage Del DOT from increasing the highway right of way acreage amount needed by the Brown-North Alternative within the Runway 17 RPZ.
5. The right of way of the Brown-North Alternative does not encroach upon the existing Runway 17 Object Free Area (ROFA). However, it would preclude the airport owner from constructing an internal airport vehicle service road to get around the *existing* north end of the Runway without using off-site public roadways. This was a condition of our, Airport Layout Plan approval letter dated February 8, 2006. The condition was imposed in order to address FAA's emphasis on

prevention of Aircraft-Vehicle incursions. Moreover, the roadway would penetrate the actual ROFA of the *proposed* runway extension shown on the current conditionally approved ALP.

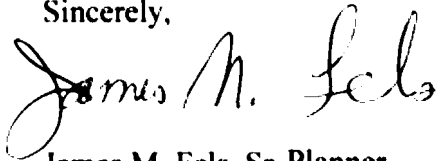
Summary:

The Brown-North alternative is objectionable due to the conflict that results with airport planning previously accomplished and shown on the current Airport Layout Plan (ALP) as conditionally approved February 8, 2006. For the above reasons, the planned extension to the north would not be able to be built. Extending the runway only, or all to the south, to achieve the future length would need to be evaluated if the Brown-North Alternative were to remain a reasonable & feasible alternative of the EIS.

FAA is concerned about potential environmental impacts to adjacent communities to the south since the Brown-North Alternative precludes extending the runway to the north at all. Specifically, the surrounding terrain and land use to the south would need to be changed through land acquisition, grading, drainage improvements, and Churchtown Road realignment before the entire extension meeting FAA standards could be built to the south alone. We would look to the Delaware DOT to document the environmental effects of the resulting shift of Runway 17/35 to the south. It must be demonstrated the resulting shift would be consistent with local plans, and successfully coordinated with the interests of local communities and affected parties, as well as meet FAA Airport Design Standards prior to extending Runway 17/35 to the south alone.

We hope this adequately studies the aeronautical impacts for inclusion in your Route 301 DEIS study. This letter concludes the 2006-AEA-314-NRA case.

Sincerely,



James M. Fels, Sr. Planner
Harrisburg Airports District Office

cc: by eMail only:

Michael Kirkpatrick Del DOT Aviation Planner
Finn Neilson, Summit Aviation @ EVY
Oscar Sanchez, FAA-Harrisburg ADO